



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 21 2005

IN RE:

Applicant:



APPLICATION: Application for Status as a Temporary Resident pursuant to Section 210 of the
Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the service center that processed your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish that he performed at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information acquired by the Service relating to the applicant's claim of employment for ██████████ ██████████ Son Contractors.

On appeal, the applicant reaffirms his claimed employment, stating that he has been unable to locate ██████████ ██████████ to acquire additional evidence to corroborate his claimed employment.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, provided he is otherwise admissible under section 210(c) of the Act and is not ineligible under 8 C.F.R. 210.3(d). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. 210.3(b).

On the Form I-700 application, the applicant claimed a total of 202 man-days of qualifying agricultural employment for ██████████ at ██████████ Contractors from September 1985 to March 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a notarized letter of employment, both signed by ██████████ who identified himself as the applicant's foreman at Ram/Son Contractors. ██████████ specified that the applicant worked 112 man-days from September 1985 to December 1985, and 90 man-days from January 1986 to March 1986.

In attempting to verify the applicant's claimed employment, the Service acquired information which contradicted the applicant's claim. Specifically, ██████████ of Ram/Son Contractors stated that ██████████ only worked as a foreman for a total of twenty-six days during the months of October and November of 1985. Furthermore, ██████████ bookkeeper for Ram/Son Contractors, stated that their business ended on December 31, 1985 and that no one but herself actually worked in the month of December.

On December 21, 1988, the applicant was advised in writing of the adverse information obtained by the Service, and of the Service's intent to deny the application. The applicant was granted thirty days to respond. The record does not contain a response from the applicant.

The director concluded that the applicant had failed to overcome the adverse evidence, and denied the application. On appeal, the applicant reaffirms his claimed employment, stating that he has been unable to locate ██████████ to acquire additional evidence to corroborate his claimed employment. The applicant submits a letter regarding more recent non-qualifying employment.

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification. 8 C.F.R. 210.3(b)(1). Evidence submitted by an applicant will have its sufficiency judged according to its probative value and credibility. 8 C.F.R. 210.3(b)(2). Personal testimony by an applicant which is not corroborated, in whole or in part, by other credible evidence (including testimony by persons other than the applicant) will not serve to meet an applicant's burden of proof. 8 C.F.R. 210.3(b)(3).

There is no mandatory type of documentation required with respect to the applicant's burden of proof; however, the documentation must be credible. All documents submitted must have an appearance of reliability, i.e., if the documents appear to have been forged, or otherwise deceitfully created or obtained, the documents are not credible. United Farm Workers (AFL-CIO) v. INS, Civil No. S-87-1064-JFM (E.D. Cal.).

According to officials of Ram/Son Contractors [REDACTED] worked as a foreman for only 26 days during the qualifying period. The applicant has not overcome this derogatory information which directly contradicts the applicant's claim.

The applicant has failed to credibly establish the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month statutory period ending May 1, 1986. Consequently, the applicant is ineligible for adjustment to temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.